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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/490,268	01/24/2000	Glenn H. Bostock	720a	6942
7590	05/18/2005		EXAMINER	
JOHN A. CHINONCHIO, ESQUIRE SYNNESTVEDT & LECHNER LLP 1101 MARKET STREET, SUITE 2600 PHILADELPHIA, PA 19107				AMIRI, NAHID
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/490,268	BOSTOCK, GLENN H.	

<b>Examiner</b>	<b>Art Unit</b>	
Nahid Amiri	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 13 January 2005.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 26-39 and 60 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 33-39 and 60 is/are allowed.

6) Claim(s) 26-32 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 24 January 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 26, 29-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 26, the phrase “**upon engagement of said tongue of said panel with said groove of said similar panel.....**”, Claims 29, lines 5-6, the phrase “**for attachment of said panel piece to said structure**”, and claim 30, line 2, the phrase “**wherein the said structure comprises and elevator**”. It appears applicant is claiming the combination of panel assembly wherein, the preamble of the claim drawn to subcombination which is only a panel piece not the wall panel assembly. Therefore, the Examiner will examine the claim as best understood and treat the claims 26, 29-30 as a subcombination.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 26-28 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 5,570,554 Searer.**

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In regard to claims 26: Searer discloses the claimed invention Figs. 1-2, a panel piece 12 engagable with similar piece 14 to form a panel assembly, the panel piece 12 including a front side and rear side, a first edge 7 having a tongue 38 extending lengthwise and projecting outwardly substantially coplanar with the panel piece 14, a first flange 40 positioned between the tongue 38 and rear side and a second flange 40 positioned between tongue 38 and front side, a second edge 8 positioned opposite of first edge 7 and having groove 26 extending lengthwise therealong, the groove 26 having a rear leg 18 positioned to rear side and a front leg 32 positioned in spaced relationship to rear leg 18, a base B extending between legs 18 and 32.

In regard to claims 27-28: Searer discloses the claimed invention Figs. 1-2, the tongue 38 extends substantially along the entire length of the first edge 7, and the groove 26 extends substantially along the entire length of the second edge 8.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Searer.**

In regard to claims 29-30: Searer discloses the claimed invention Fig. 2, column 5, lines 12-14, having a plurality of nails 22 extending through the rear leg 18. It would have been an obvious matter of design choice to provide a plurality of spaced apart apertures on rear leg in order to fastening the floor panel to substructure, it appears that the invention would perform equally well with invention of applicant's nails which minimize the cost and labor.

**Claims 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Searer in view of US Patent No. 6,606,834 B2 Martensson et al.**

In regard to claims 31-32: Searer discloses the claimed invention except the panel piece is formed from a laminate which comprises wood and non-wood materials. Martensson teaches column 2, lines 1-3, the floor covering or wall panel is formed from laminate thermosetting, or cellulosic product such as wood fiber board, or chipboard particle board or veneer impregnated or coated with waterproofing material such as wax or a thermoplastic. It would have been obvious to one of ordinary skill in the art at the time of invention was made to form the panel from laminate in order to construct a waterproof floor panel.

***Allowable Subject Matter***

Claims 33-39 and 60 are allowed.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 6,237,295 Ballard

US Patent No. 3,187,389 Anderson

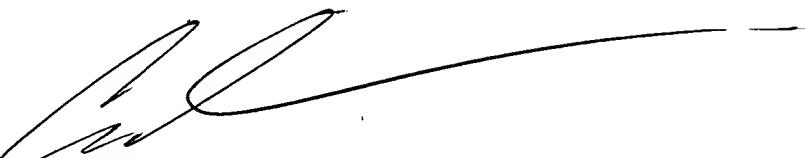
US Patent No. 6,851,237 B2 Niese et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (571) 272-8113. The examiner can normally be reached on 8:30-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nahid Amiri  
Examiner  
Art Unit 3635  
May 5, 2005



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600